

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 19-cr-1310 WJ

AARON TOM,

Defendant.

**ORDER DENYING DEFENDANT'S
EMERGENCY MOTION TO MODIFY CONDITIONS OF RELEASE**

THIS MATTER IS BEFORE THE COURT on Defendant's Emergency Motion to Modify Conditions of Release (**Doc. 59**). Defendant is currently in custody at the McKinley County Detention Center pending trial and seeks permission to attend the funeral of his mother scheduled for June 18, 2020. Defendant asks the Court to release him to the custody of his girlfriend beginning at 8:00 a.m. the day of the funeral until 8:00 p.m. that evening. Both the Government and United States Pre-Trial Services oppose Defendant's Motion. Having reviewed Defendant's motion and the applicable law, and considered the oral arguments of counsel at the hearing on this matter, the Court concludes that the Motion should be **DENIED**.

Defendant is accused of three counts of interference with interstate commerce by threats or violence contrary to 18 U.S.C. § 1951. (Doc. 1.) Defendant previously requested release to attend the funeral of his cousin, a request which this Court denied in its order of January 21, 2020. (*See* Doc. 48.) In that Order, the Court explained in detail its reasons for denying Defendant's motion and cited Defendant's lengthy criminal history and his history of failing to appear for court proceedings and to comply with probation. (*Id.*)

Defendant's instant motion asks for release to attend the funeral of his mother. At the hearing on this matter, counsel for Defendant argued that a pending plea agreement offers him significant incentive to comply with Court-ordered release, therefore mitigating any flight risk. The United States' opposition was based largely on the fact that nothing in this case, other than the pending plea offer, has changed since the Court denied Defendant's previous request. The United States argued that Defendant's motion should be denied for the same reasons his previous motion was denied.

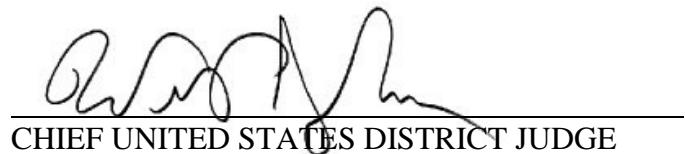
The Court acknowledges that the loss of a parent is a significant event in a person's life and that the familial association between parent and child is likely much closer than that between cousin and cousin. The Court is not unsympathetic to the fact that this is a sad situation, not only for Defendant but for his entire family. Even so, for substantially the same reasons as articulated by the Court in its previous order, (Doc. 48), the Court concludes that Defendant's request should be denied. Defendant's significant criminal history continues to trouble the Court and weigh against release, even for a short period.

Additionally, as further explained to counsel during the hearing on this matter, the novel coronavirus (COVID-19) pandemic which has swept all across the United States has also hit McKinley County particularly hard. To the Court's knowledge, the McKinley County Detention Center has so far managed to control any spread of the virus within its facility. However, releasing Defendant into McKinley County presents a risk that Defendant could introduce the disease into the detention center upon his return. Moreover, given all the health risks associated with the COVID-19, the Court cannot have deputy U.S. Marshals or detention center officers accompany Defendant on this requested furlough. Therefore, the Court concludes that it would be

inappropriate to take such risks, particularly when Defendant's background weighs against his request in the first place.

Accordingly, for these reasons and those stated on the record, Defendant's Amended Emergency Motion to Modify Conditions for Release (**Doc. 59**) is **DENIED**.

IT IS SO ORDERED.



CHIEF UNITED STATES DISTRICT JUDGE